

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BENITA MAY CASAS

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner  
of the Social Security Administration

Defendant.

4:09CV3244

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's motion for payment of attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), [28 U.S.C. § 2412](#) and [42 U.S.C. § 406\(b\)](#), of the Social Security Act (the "Act"). Filing No. [30](#). Plaintiff seeks EAJA attorney fees in the amount of \$2,916.68. Filing No. [30](#). In addition, plaintiff requests recovery for paralegal and law clerk time based on 33.80 hours at the rate of \$25.00 per hour for paralegal 1 and 2, \$15.00 for paralegal 3, and \$20.00/\$35.00 per hour for law clerk 1 (February 2010 at \$20.00 and February 2011 at \$35.00) in the amount of \$683.75, for a total of \$3,600.43. Filing No. [30](#).

The defendant has no objection to the amount requested. Filing No. [33](#). Plaintiff states that she does not have any outstanding debts with the United States and requests that any EAJA fee she receives be made payable directly to her attorney.<sup>1</sup> Therefore, EAJA fees are payable to plaintiff, but are subject to offset to satisfy any pre-existing debt that the litigant owes to the United States. See [Astrue v. Ratliff, 130 S. Ct. 2521 \(2010\)](#).

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<sup>1</sup> "It is understood that if a fee is awarded based on the present Application, and that if payment of an attorney's fee by Plaintiff is authorized under 42 U.S.C. 406(b), and that if both fees are actually paid to and received by Counsel for Plaintiff, the smaller of the two fees will be refunded to Plaintiff." Filing No. [30](#).

The court finds the plaintiff is entitled to an award pursuant to [42 U.S.C. § 405\(g\)](#) as a prevailing party in this action. See [Shalala v. Schaefer, 509 U.S. 292, 302 \(1993\)](#). The court further finds that the request is reasonable as to hourly amount and hours spent. Payment in the amount of \$3,600.43 shall be paid directly to attorney Stephen Speicher with the understanding that any payment of the attorney fees by the claimant pursuant to [42 U.S.C. § 406\(b\)](#) will be reduced by the amount of the fee authorized under the EAJA and will be reduced by any qualifying offset.

IT IS ORDERED that plaintiff's motion for payment of attorney fees, Filing No. [30](#), is granted. Payment in the amount of \$3,600.43, minus any authorized deductions, shall be paid directly to attorney Stephen Speicher as set forth herein.

DATED this 17<sup>th</sup> day of June, 2011.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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